

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Honorable Sean F. Cox

City of Detroit, *et al.*,

Case No. 77-71100

Defendants.

ORDER DENYING
WALBRIDGE ALDINGER COMPANY'S MOTION TO INTERVENE

The Environmental Protection Agency filed this action in 1977 against the City of Detroit and the Detroit Water and Sewerage Department (“DWSD”), alleging violations of the Clean Water Act, 33 U.S.C. § 1251 *et seq.* This action was originally assigned to the Honorable John Feikens, who presided over this action for several decades. The action was reassigned to this Court on November 24, 2010.

On January 10, 2012, Walbridge Aldinger Company (“Walbridge”) filed a Motion to Intervene and for Expedited Consideration (Docket Entry No. 2434). In this motion, Walbridge asks to intervene in this longstanding action in order to assert claims against the City of Detroit, the DWSD, and the Detroit Board of Water Commissioners, pursuant to 28 U.S.C. § 1983. Those claims relate to recent actions taken by the Board of Water Commissioners.

Walbridge’s motion states that, in the past, “this Court has taken cognizance over” various contracting matters and matters involving the DWSD’s administration. The cases cited by Walbridge, however, involve *separate actions* filed by various parties, asserting claims

against the City of Detroit that relate to the DWSD. Notably, those various parties did not seek to intervene in this action in order to assert those claims. Rather, they filed separate actions asserting claims against the City of Detroit involving the DWSD that were subsequently reassigned to Judge Feikens as companion cases to this action.

Simply stated, there is no need for Walbridge to intervene in the fourth decade of this case involving Clean Water Act violations¹ in order to assert the claims in its proposed complaint because Walbridge may file a separate action to assert those claims.

In its motion, Walbridge further notes that the City of Detroit and the DWSD appear to believe that another case asserting § 1983 claims against the City of Detroit relating to recent actions taken by the Board of Water Commissioners (Case No. 12-10041, assigned to the Honorable John O'Meara) is a companion case to this action. While Judge Feikens may have taken an arguably expansive view of what constitutes a companion case to this action, this Court strictly construes the local rule governing reassignment of companion cases. Pursuant to Local Rule 83.11(b)(7), companion cases are cases in which it appears that: a) substantially similar evidence will be offered at trial; or b) the same or related parties are present and the cases arise out of the same transaction or occurrence. This Court does not believe that Case No. 12-10041 is a companion case to this action.

The Court finds that oral argument would not aid the decisional process. *See* Local Rule 7.1(f)(2), U.S. District Court, Eastern District of Michigan. The Court therefore ORDERS that Walbridge's motion will be decided without oral argument.

¹Walbridge's motion erroneously refers to this case as "the Federal Receivership Action." This action is not a receivership action and neither the City of Detroit nor the DWSD are in receivership.

IT IS FURTHER ORDERED that Walbridge's request for expedited consideration is GRANTED.

IT IS FURTHER ORDERED that Walbridge's Motion to Intervene in this matter is DENIED because it can simply file a new action in order to assert its proposed § 1983 claims.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: January 11, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 11, 2012, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager